

legislative career that I spoke to the National Association of Manufacturers. But during the question and answer period, one of my business owners said he did not understand the managed care debate. He said he has insurance for his employees. He said, "I am afraid, I don't want my employees to sue me." I said, "Let me tell you, that is not my intent as a cosponsor of this bill and a signatory on the discharge petition. Our intent is not to have employees suing employers. Our intent is to just make sure that employees have that ability to go to that person who makes that decision." Maybe it is in Hartford or Des Moines or wherever it is, or Dallas, Texas, but they ought to be able to go against that person who is making that decision.

Employers do not make that decision. I was a manager of a business and had the job of finding insurance coverage for our company. I spent a lot of my time as a manager listening to my employees complain about the insurance coverage, so I would contact the insurance company and say, "This is not what you told me when we bought this 3-year policy."

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Some employers can afford a Cadillac plan. Maybe they have a union contract and they bargained for their benefits. Some employers can only afford a Chevrolet. That is not the issue. We do not mandate. Whatever the employer can afford, we want to make sure that employee receives that care and what the employer is paying for.

So there is no intent on that. Hopefully the National Association of Manufacturers will realize that we do not want their members to be sued. We want their members to get their money's worth out of what they are paying for insurance coverage today and in administering their plan. Hopefully they will realize that and we will see some support, because employers want to do the right thing by their employees.

Hopefully their trade association here in Washington will do the same thing, and let them know that that is not our intent as Democratic members to have that happen.

Again, I thank the gentleman. I am glad to see our other colleagues from other committees, the Committee on Education and the Workforce, where I served for 2 terms, because we have joint jurisdiction on this bill.

Hopefully we will see some hearings, real hearings and a markup before we get our 218. But if not, we will work hard to get our 218 signatures to have that discharge petition.

Mr. PALLONE. I want to thank the gentleman in particular for bringing up what has happened in the gentleman's own State's legislature in Texas. As we know, some of the criticism which is really coming from the insurance company about the Patients' Bill of Rights or any kind of managed care reform is that somehow it is going to cause all those lawsuits. The Texas experience

shows that is not the case. What we want to do is preventative. If these are in place, people do not have to file lawsuits because the protections are there.

In addition, the gentleman pointed out there has been very little cost increase. We always get the criticism that this is going to cost a lot of money. It has been a matter of pennies, from what I understand.

Mr. GREEN of Texas. If the gentleman will continue to yield, again, it is such a small cost, and the people are more than willing to pay it to get adequate health care.

Mr. PALLONE. The other thing, too, is the insurance industry keeps saying, why do we have to do this if the States are doing it? Why do we have to do it on the Federal level?

Of course, as the gentleman points out, most plans do not come under the State law because a lot of plans are preempted by ERISA. So if the company basically has its own insurance, which a lot of big companies do, they are not covered by the State law. So we do need the Federal legislation.

I want to thank the gentleman again for his input.

I yield to the gentleman from New Jersey (Mr. ANDREWS), the ranking member on the Subcommittee on Employer-Employee Relations. I know the gentleman is going to give us some information about this piecemeal approach we think some of the Republicans are trying to pursue right now, which goes very much against the comprehensive approach of the Patients' Bill of Rights.

I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Speaker, I thank my friend from New Jersey for yielding to me.

Mr. Speaker, I did want to speak tonight about the efforts of the members of the Committee on Education and the Workforce to bring to this floor a vote on our ideas of how managed care health insurance companies can be made more responsible and accountable to people.

If we travel the country and listen to people of every neighborhood, every region, every economic group, every racial and religious background, there is one common refrain. That is that the managed care industry is out of control.

The stories are legion. It is the story of the person who cannot get a referral to a specialist, a cardiologist or neurologist or an audiologist; stories about people whose children need another 6 weeks of speech therapy, but cannot get an extension under the contract because the managed care company will not interpret the contract that way.

It is about people who travel out of town and find out that their out of town health benefits are meaningless because you basically have to travel back to wherever you came from for anything short of a dire emergency room problem. It is a matter of people

going to emergency rooms and being treated for very serious problems, like collapses or chest pains, and then being told weeks or months later that it was not really an emergency, that they have to pay the bill themselves.

It is about people being referred to specialists who may not be appropriate for the care that they need for mental health services or for other kinds of services.

There are stories of women being discharged from hospitals 30 hours after giving birth by C-section, people being discharged from hospitals 30 hours after having hip replacement operations. We are not making these stories up. I have heard them myself from people in my district in New Jersey.

Now, how is this, that in this country an industry could become so autocratic and so unresponsive to consumers? I think the reason is that in our economy, there are three ways that institutional behavior is controlled. There is regulation, there is competition, and there is litigation.

Regulation is obviously a set of rules that tells people and institutions and corporations what they can and cannot do. It applies to supermarkets, it applies to airlines, it applies to homebuilders, it applies to just about everything in American society.

Under present law, regulations like those in my State, in our State of New Jersey, that say you have to give a woman at least 72 hours after she has given birth by C-section, do not apply to most Americans because they are covered by a Federal law called ERISA, the Employment Retirement Income Security Act of 1974, that wipes out the effect of those State laws. So most people are not protected by regulation in their health insurance plan.

Then there is a matter of competition. If you do not like the Big MACK, you can buy a sandwich from Wendy's, Burger King, or one of the other chains. It does not work that way in health insurance. In most markets in metropolitan areas around the country, one or sometimes two major managed care plans control 75 percent or 80 percent of the people who live in an area.

In the Philadelphia area in which I live, two plans cover about 85 out of every 100 people. When there is that much domination of the market by that few people, there is no meaningful competition. If you do not like what one plan is doing, you really do not have a meaningful choice to go to someone else, which leads you to litigation. If you do not like what someone is doing, you sue them.

I understand that some people feel that lawsuits have gotten out of control. Perhaps some of them have. But if you mow lawns for a living or build houses for a living or sell groceries for a living or paint houses for a living, if you do something wrong, you can be held accountable in a court of law.

If you hire someone to paint your house and they do a lousy job and your